

REMARKS/ARGUMENT**Regarding the Claims in General:**

Claims 1, 2, 4-13, 19-23, and 25-38 are now pending. Claims 1, 4-11, 13, and 19-22 have been amended to better highlight distinguishing features of the invention, to adopt customary idiomatic English and grammar, and to replace the means plus function language with structural recitations. Several of the claims have also been reformatted for improved readability. Claims 3, 18, and 24 have been canceled without prejudice and have been replaced by new claims 36-38, respectively, for the same purposes.

New claims 25-35 have been added to provide applicants with additional protection to which they appear to be entitled in light of the known prior art.

No new matter has been introduced by any of the amendments.

Regarding The Allowable Subject Matter

Applicants note with appreciation the allowance of claims 19-24. Regarding these claims, the Examiner's attention is respectfully directed to the fact that claims 19-22 have been amended in certain minor respects as noted above, and that claim 38 has been substituted for original claim 24. Except to the extent that these claims now employ structural language, they have not been changed in any substantive respect, and are believed to remain allowable.

Regarding the Examiner's Comments under 35 U.S.C. 112, 6th Paragraph:

The Examiner's comments are noted, but are believed to be moot in view of the elimination of means plus function recitations from all claims.

Regarding the Prior Art Rejections:

In the outstanding Office Action, claims 1-7, 10, and 12-17 were rejected under 35 U.S.C. 102(b) as being anticipated by Saab U.S. Patent 5,624,392 (Saab), and claims 8, 9, and 18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Saab. Also, claim 11 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Saab in view of Nurmi U.S. Patent 6,747,930

(Nurmi). These rejections are moot as to claims 14-17 in view of the cancellation thereof, and are respectfully traversed as to claims 1-13, and 18, in view of the amendments herein.

Claim 1 has been amended by adding a second double lumen balloon catheter introduced in the other nostril as seen, for example in the Fig. 2. Saab does not disclose or teach a second double lumen balloon catheter. Consequently, amended claim 1 is not anticipated by Saab.

Likewise, claim 1 can not be regarded as unpatentable over Saab under 35 USC 103(a). Saab is concerned with catheters intended for introduction into blood vessels of a human being, and are dimensioned accordingly (see, for example, column 5, line 34 or column 8, line 25 and many other passages). There is no disclosure, teaching or suggestion in Saab from which a person skilled in the art would be led to use the Saab apparatus, or to modify it so it could be used, for cranial cooling by insertion through a nostril and, certainly, not to employ two such catheters, one for each nostril.

Nor does Nurmi, or any of the other cited, but unapplied references, remedy these deficiencies in Saab. None of these is directed to an intra-nasal catheter for cerebral cooling. The closest of these references, Wong, is concerned with intra-cranial cooling, but all the disclosed devices are intended for direct cranial insertion. There is no disclosure, teaching or suggestion for intra-cranial cooling using one or more intra-nasal catheters.

Nurmi is even more remote, as it does not deal with catheters for any purpose.

All of claims 2, 4-13, and 25-36, are directly or indirectly dependent on claim 1, which is allowable for the reasons stated above, or on allowed claim 19. These claims are allowable for the same reasons as claims 1 and 19, and further because they recite features, which, in combination with their respective parent claims, are not disclosed, taught, or suggested in Saab, Nurmi, or any other reference of record, whether considered alone, or in combination.

For example, claim 11, as amended, specifies that the temperature sensor is "positioned in the auditory canal of the living being". There is no disclosure, teaching or suggestion of this in Saab, Nurmi, Wong, or in any other reference.

Similarly, claim 9 and new claim 31 recite features relating to regulating resistance in the tubing connecting the catheters to the coolant reservoir. The resistance is for controlling the pressure of the expanding double lumen catheter towards the tissue. This concept is not disclosed, taught, or suggested in Saab, or in any other reference.

In view of the foregoing, favorable reconsideration and allowance of this application are respectfully solicited.

I hereby certify that this correspondence is being transmitted by Facsimile to (571) 273-8300 addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

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LAH:lac

Respectfully submitted,

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